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September 19

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CONCORD, N.H.

Adalard E. Cote, Commissioner
Department of Labor
15 Pleasant Street
Concord, New Hampshire

Re: Laconia Ice Company

Dear Mr. Cote:

This is in response to your letter of August 19, wherein you ask our opinion as to whether certain work performed by the Laconia Ice Company renders that company a sub-contractor in the construction of public works and thereby subject to the minimum wage requirements of RSA 280:1 (R.L., c. 214, s. 1).

Since receiving your letter I have had correspondence with William W. Keller, Esq., attorney for the company. I have also discussed this matter with him on the telephone.

It appears that the Laconia Ice Company has several trucks which have from time to time been used in hauling gravel and stone. These trucks were involved in several state highway jobs. The work performed by these trucks consisted of picking up sand and gravel at the Tilton Sand and Gravel Company or treated stone at Pike and Sons at Laconia and delivering the same to the site of the various public construction projects. The Laconia Ice Company was paid so much per ton for the materials it delivered. When hauling for the Tilton Sand and Gravel Company, the Laconia Ice Company was paid by said company. When hauling for Pike and Sons they were paid by the prime contractor on the project, one Whitcomb. On all of these jobs the work consisted of hauling the materials in question to the site of the construction. The trucks and drivers did not participate in the actual construction of the projects in question.

part as follows:

RSA 280:1 (R.L., c. 214, s. 1) provides in

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"1. Regulation by Commissioner of Labor. The rate per hour of the wages paid to mechanics, teamsters, chauffeurs, and laborers employed in the construction of public works by the state of New Hampshire, or by a county or town, or by persons contracting or sub-contracting for such work, shall not be less than the rate or rates of wages to be determined by the commissioner of labor as hereinafter provided; . . ."

It is the opinion of this office that the Laconia Ice Company was not engaged in the construction of the aforementioned public works projects and is therefore not subject to the provisions of RSA 280:1 (R.L., c.214, s.1). While the activity of the company in question undoubtedly contributed to the construction of the project its contribution was indirect and not a part of the actual construction. It is not believed that the legislation involved was intended to embrace all persons contributing to the completion of a public works project, but rather, we believe it was intended to apply to those companies engaged in actual construction.

Very truly yours,

Elmer T. Bourque
Law Assistant

ETD/T

CC: John E. Morton, Public Works
William W. Keller, Esq.